

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition Nos.19686 and 25530 of 2007

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Dated: December 11, 2007

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Writ Petition No.19686 of 2007

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Between:

A. Sudhakar, S/o. Mallaiah, aged about 48 years,
Occ: Business, R/o. Yellam Bazar, Warangal,
A-4 licensee of M/s. Sai SSS Wines,
Rangsaipet, Warangal.

... Petitioner

And

The Commissioner, Prohibition and Excise,
Nampally, Hyderabad, and others.

... Respondents

Writ Petition No.25530 of 2007

Between:

M/s. Rukmini Restaurant & Bar, Ramaram Bheemaram
Village, Warangal District, rep. by licensee V. Raju.

... Petitioner

And

The Commissioner, Prohibition and Excise,
Nampally, Hyderabad, and others.

... Respondent

Common order:

As the subject matter of both these writ petitions is inter-connected, they are heard together and are being disposed of by this common order.

2. W.P.No.19686 of 2007 has been filed by a licence holder of A-4 shop seeking Mandamus to declare the action of Commissioner of Prohibition and Excise, Nampally in considering the proposal for shifting of the licence premises of M/s. Rukmini Restaurant and Bar, of which the fourth respondent therein is the licensee, as arbitrary and illegal.

3. W.P.No.25530 of 2007 has been filed seeking Mandamus to declare the order dated 26-11-2007, passed by the Commissioner of Prohibition and Excise in Cr.No.9775/2007/CPE/G3 as arbitrary and illegal.

4. Petitioner in W.P.No.19686 of 2007 was granted A-4 licence to run retail outlet for selling liquor and he established A-4 shop in H.No.19-10-204 a Rangsaipet, Warangal and is running the same in the name and style of M/s. Sri S.S.S. Wines. It is stated that on coming to know that the fourth respondent (petitioner in W.P.No.25530 of 2007), who has obtained licence in Form 2-B under the provisions of A.P. Excise (Grant of licence of selling by Bar and Conditions of licence Rules) 2005 (for short 'the Rules), has applied for shifting of the licence premises from Ramaram Bheemaram village to Rangsaipet, he filed representation dated 13-09-2007 to the

Commissioner of Prohibition and Excise raising an objection for the said shifting.

5. This court, in W.P.No.19686 of 2007, while issuing notice before admission, by order dated 18-09-2007, directed the Commissioner of Prohibition and Excise to take into account the objection raised by the petitioner therein before considering the request for shifting of the licence premises.

6. The case of the petitioner in W.P.No.25530 of 2007 is that as per the Rules, he has obtained 'No-Objection' certificate from the local authority where he intended to shift the licence premises and also paid requisite fee; in spite of the same the impugned order has been passed rejecting his request for shifting, without assigning any reasons, merely stating that the proposal is not in accordance with Rule 13(3) of the Rules.

7. Learned counsel for the petitioner in W.P.No.25530 of 2007 submits that there are no sales in the present premises and the petitioner is incurring losses. He further submits that the proposed shifting is in consonance with the Rules and, hence, there cannot be any objection for the shifting.

8. The Commissioner of Prohibition and Excise, Hyderabad has filed counter affidavit stating that the proposal to shift the licence premises is mainly rejected on the ground that the premises to which M/s. Rukmini Restaurant and Bar is sought to be shifted, i.e. premises bearing H.No.5-183, Satya Sai Nagar, Thimmapur Haveli, Warangal, is only one kilometer away from the premises bearing House No.19-10-204, Rangasaipet, at which place petitioner in W.P.No.19686 of 2007, i.e. Sri Sudhakar was granted A-4 licence in the name and style

of SSS Wines.

9. Under Rule 13(3) of the Rules framed in G.O.Ms.No.997 dated 24-05-2005, it is permissible for the Commissioner to order for shifting of license premises issued in Form 2-B, subject to payment of Rs.10,000/-. Though it is the case of the respondents that if the shifting of the license premises, as requested by the petitioner in W.P.No.25530 of 2007 is permitted, the business of the petitioner in W.P.No.19686 of 2007 will be affected. The same stand has been taken by the respondents in the counter affidavit filed in W.P.No.25530 of 2007. Though this court in W.P.No.19686 of 2007, while issuing notice before admission, by order dated 18-09-2007, directed the Commissioner of Prohibition and Excise to take into account the objection raised before considering the request for shifting of the licence premises, the same has not been done. On the other hand, order dated 26-11-2007 has been passed merely stating that the application of the petitioner in W.P.No.25530 of 2007 for shifting of the licence premises, is not in conformity with Rule 13(3) of the Rules, without assigning any valid reason.

10. As much as no specific reason has been assigned for rejecting the request for shifting of the licence premises and the objections raised by the petitioner in W.P.No.19686 of 2007 for shifting of the licence premises of the petitioner in W.P.No.25530 of 2007 have not been considered, I deem it appropriate that it is a fit case where the entire issue has to be considered afresh by the Commissioner of Prohibition and Excise.

11. Accordingly, both the writ petitions are disposed of directing the Commissioner of Prohibition and Excise to consider the entire issue afresh, by taking into account the objections raised by the

petitioner in W.P.No.19686 of 2007 for shifting of the licence premises of the petitioner in W.P.NO.25530 of 2007, and also the request of the petitioner in W.P.No.25530 of 2007 for shifting his licence premises, and pass a reasoned order. No order as to costs.

JUSTICE R. SUBHASH REDDY.

December 11, 2007

MRR